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HUMAN RIGHTS COMMITTEE

Sixtieth session

SUMMARY RECORD OF THE 1587th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 14 July 1997, at 10.30 a.m.

Chairman: Mrs. CHANET

later: Mrs. MEDINA QUIROGA

later: Mrs. CHANET

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GE.97-17284 (E)

The meeting was called to order at 10.50 a.m.

OPENING OF THE SESSION

1. The CHAIRMAN declared open the sixtieth session of the Human Rights Committee.

TRIBUTE TO THE MEMORY OF MRS. MOGHAIZEL

2. At the invitation of the Chairman, the Committee observed a minute's silence in tribute to the memory of Mrs. Moghaizel.

3. Mr. TISTOUNET (Secretary of the Committee) said that the procedure to be followed pursuant to article 28 of the Covenant provided a two-month period for the submission of candidatures for the vacancy left; that period would expire on 15 July, and the matter would be considered at a special meeting to be held on 7 October. It was hoped, therefore, that a newly elected member could attend the Committee's October session.

ADOPTION OF THE AGENDA (CCPR/C/124)

4. The agenda was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2)

5. The CHAIRMAN announced that a representative of the Secretary-General would address the Committee on 16 July. She also announced that the Committee had received a report by the United Kingdom on Hong Kong, as well as the latest periodic report of Belarus, which could not be considered at the current session for reasons which would be explained later.

6. The programme of work for the current session included consideration of the work carried out by the pre-sessional working group on communications, which had also taken on the tasks of preparing lists of issues, under article 40 of the Covenant, concerning reports scheduled for consideration at the current session, and a further review, in the light of the Committee's discussions at its fifty-ninth session, of its procedures under that article. The Committee would have before it lists of issues concerning Slovakia, France and India. Because of the current situation in the Congo, the authorities there were unable to send a delegation to report to the Committee at the current session; unfortunately, it was not possible to bring forward any other State party's report to be considered in the time thereby left available. In that connection, she planned to discuss with the Bureau, and later with the Committee, the possibility of reviewing the system of reserve reports so that any such spare time could be utilized in the future. The Committee must also decide on a suitable moment for considering, in public session, the report on follow-up procedures, and determine priorities for the purpose of completing the draft general comments.

7. Mr. BHAGWATI suggested that the question of follow-up procedures should be discussed at the morning meeting of 31 July.

8. The CHAIRMAN said that, since the Committee was also due to consider communications at that meeting, the latter would in that case be divided into closed and public parts.

9. Mr. POCAR suggested that the programme of work should be left as flexible as possible; the aim should be to give priority to consideration of communications, in order to deal with as many of them as possible at the current session.

10. The CHAIRMAN said that that should be feasible, since the Committee had only three State party reports to discuss at the current session. It was hoped to begin consideration of communications at the afternoon meeting of the next day. She suggested that the Committee should also be ready to spend further time on communications if consideration of the report of France was completed earlier than scheduled. In addition, on 23 July an entire day would be available for considering communications, since the report of the Congo could not be considered. The meetings on 28, 29 and 30 July would also be devoted to consideration of communications. A meeting of the Bureau would be held on 18 July in order to finalize dates and times.

11. The programme of work was approved on that understanding.

12. Mr. KRETZMER, speaking at the Chairman's invitation as Chairman/Rapporteur of the pre-sessional working group, said that, since insufficient members had been available to form two separate working groups, the group had considered not only the question of communications but also the lists of issues concerning reports scheduled for consideration at the current session and a further review of the Committee's procedures under article 40 of the Covenant. The group, composed of Mrs. Evatt, Mr. Bhagwati, Lord Colville, Mr. Klein, Mr. Pocar, Mr. Prado Vallejo and himself, had held 10 meetings. With regard to the preparation of lists of issues under article 40, it had heard representatives of UNICEF, ILO and UNHCR as well as, for the first time, representatives of the Special Rapporteurs on Enforced or Involuntary Disappearances, Summary or Arbitrary Executions, Torture and Racial Discrimination, as well as of the United Nations Special Fund for Victims of Torture. It had also met representatives of several international non-governmental organizations, whose information had been found useful. The working group had accordingly drawn up lists of issues (CCPR/C/60/Q/SLO/3, CCPR/C/59/Q/IND/3, M/CCPR/C/60/Q/FRA/2) relating to the reports of Slovakia, India and France to be considered at the Committee's current session. It had also discussed a number of other general issues, and had prepared certain recommendations which the secretariat would shortly circulate to the Committee members.

13. With regard to communications, the working group had adopted 11 decisions on admissibility and 7 recommendations relating to article 5, paragraph 4, of the Optional Protocol. It had made seven recommendations to declare communications inadmissible and, in one case, taken a decision to seek further clarification under rule 91.

List of issues to be taken up in connection with the consideration of the initial report of Slovakia (CCPR/C/81/Add.9)

Part I (Paragraphs 1-12)

14. Mrs. EVATT said that the last sentence of paragraph 5, while couched in general terms, was really directed to the issue of the Hungarian language. She wondered whether it could be amended accordingly, or whether further text could be added.

15. The CHAIRMAN said that perhaps the Committee should not seek to be too precise in that regard, although the point raised by Mrs. Evatt should be kept in mind.

16. Part I was adopted.

Part II

Paragraph 13

17. The CHAIRMAN remarked on the density of paragraph 13 and noted that the question on the invocation of the provisions of the Covenant before the courts seemed to be doubly posed in the second and final sentences.

18. After a discussion in which Mrs. EVATT, Mr. LALLAH and Mr. POCAR took part, the CHAIRMAN said she took it that the Committee was especially concerned that the reporting State should provide information on the possibility of invoking the Covenant in all courts, and not merely the Constitutional Court. With that understanding, the final sentence of paragraph 13 might be deleted, and the reference to the Constitutional Court incorporated in the second sentence.

19. It was so decided.

20. Paragraph 13, as amended, was adopted.

Paragraph 14

21. Paragraph 14 was adopted.

Paragraph 15

22. Mr. YALDEN remarked that the institution of Ombudsman, as a mechanism for dealing with human rights complaints, did not exist in all States; and that in some countries, it was a human rights commission or some other specially designated body that concerned itself with such issues. That should, perhaps, be pointed out.

23. After a discussion in which Ms. GAITAN DE POMBO, Mr. KLEIN and Mrs. EVATT took part, Lord COLVILLE suggested that the question might read: "What steps have been taken to establish an Ombudsman or other independent body dealing with human rights?"

24. It was so decided.

25. Paragraph 15, as amended, was adopted.

Paragraph 16

26. Paragraph 16 was adopted.

Paragraph 17

27. The CHAIRMAN suggested that the title of paragraph 17 might more appropriately be worded "Rights of aliens".

28. It was so decided.

29. Paragraph 17, as amended, was adopted.

Paragraph 18

30. Mr. BHAGWATI proposed that "appointment" should be added to the list of actions concerning members of the judiciary in paragraph 18.

31. It was so decided.

32. The CHAIRMAN expressed some surprise at the limited scope of the issues listed by the working group in relation to article 14, which spelt out a whole series of rights relating to the fair administration of justice. Were there really so few questions that might be asked?

33. Mrs. EVATT explained that the group had not received a great deal of substantial information from non-governmental sources, and that it had been somewhat difficult to track certain issues. There could, however, be other matters to raise with the reporting State when the report was presented.

34. Paragraph 18, as amended, was adopted.

Paragraphs 19-22

35. Paragraphs 19-22 were adopted.

36. Mr. SCHEININ, referring to the rights of the child, and as an additional question, proposed that more information should be called for on measures taken to combat the commercial sexual exploitation of children and to address the situation of children rendered stateless.

37. The CHAIRMAN suggested that the adjective "commercial" might be deleted from the proposal as being superfluous.

38. The proposal, as modified, was adopted.

39. Part II, as amended, was adopted.

40. The list of issues to be taken up in connection with consideration of the initial report of Slovakia (CCPR/C/81/Add.9), as amended, was adopted.

List of issues to be taken up in connection with the consideration of the third periodic report of India (CCPR/C/76/Add.6)

41. The list of issues was adopted.

42. Mrs. Medina Quiroga took the Chair.

List of issues to be taken up in connection with the consideration of the third periodic report of France (CCPR/C/76/Add.7)

Part I

Paragraphs (1) - (7)

43. Paragraphs (1) to (7) were adopted.

Paragraph 8

44. After a discussion in which the CHAIRMAN, Lord COLVILLE and Mrs. EVATT took part, Mr. BHAGWATI suggested that the sentence might be more specifically worded, to read: "Please provide information on the rules relating to the maximum length of time spent in pre-trial detention, and on compliance with those rules".

45. It was so decided.

46. Paragraph (8), as amended, was adopted.

47. Part I, as amended, was adopted.

Part II

Paragraphs (9) and (10)

48. Paragraphs (9) and (10) were adopted.

Paragraph (11)

49. Paragraph (11) was adopted with an editorial correction ("Overseas Department" to read "Overseas Departments").

50. Mr. TÜRK inquired why the list of issues made no reference to the rights of minorities in France and more specifically to article 27 of the Covenant, which was the subject of an important general comment by the Committee. He believed that the time had come to try to make progress on the issue.

51. Mr. BHAGWATI, Mrs. EVATT and Mr. KLEIN reminded members of the Committee of the delicacy of the matter, adding that the Working Group had endeavoured to take account of the reservation made by France in connection with article 27 by reflecting its concern in that regard in its questions on racial discrimination (articles 2, 3 and 26 of the Covenant).

52. Mr. TÜRK suggested that, notwithstanding those explanations, it might be in order to ask the reporting State to provide information on the ethnic groups in the country, and on measures taken in accordance with article 27 of the Covenant, bearing in mind the Committee's general comment 23 of 1994.

53. Mr. LALLAH said, although the formulation proposed was excellent, he feared that the State party's response would be simply to point out that it had entered a reservation in regard to the article concerned. Nevertheless, the Committee should take the opportunity to ask France whether it had made any progress in that respect, and whether it was contemplating withdrawing its reservation. France should be invited to provide information on the number and distribution of its ethnic minorities.

54. Mrs. EVATT suggested that the Committee might tackle that difficult issue in a slightly different way. Instead of making the question relate to article 27, it should ask France to provide information on measures taken to ensure equal enjoyment by minorities of their rights and freedoms under the Covenant, particularly in regard to language, religion and culture, since other articles besides article 27 were relevant in that respect. It would then be possible to include under the same heading Mr. Lallah's question as to the withdrawal of France's reservation.

55. Mr. POCAR said that while he agreed that a question on minorities had to be raised, he would hesitate to qualify the position taken by France as a reservation, when it was actually termed a declaration. It would be better simply to make reference to the Covenant, leaving open the question of whether article 27 or other articles applied. The Committee should proceed with caution, and not ask a State party to withdraw a reservation when none had been made.

56. Mr. BHAGWATI said he was inclined to support that view. He suggested that a new question (12), entitled "Ethnic groups" should be added, reading: "Please provide information on the position of ethnic groups in the country and on the measures taken to ensure their rights under the Covenant".

57. Mr. TÜRK supported that suggestion.

58. The CHAIRMAN said she took it that the Committee wished to adopt the new paragraph (12) proposed by Mr. Bhagwati, the ensuing paragraphs being renumbered accordingly.

59. It was so decided.

New paragraphs (13) and (14)

60. New paragraphs (13) and (14) were adopted.

New paragraph (15)

61. Mr. ANDO recalled that the question of freedom of expression had been discussed extensively in connection with the report of France. He wondered why the Working Group had made no specific recommendation on that question.

62. Mr. BHAGWATI said that in fact the report of France contained no reference to freedom of expression as such.

63. Mrs. EVATT proposed that a further question should be added to the paragraph, reading: "Please provide information as to the extent of application of the Geyssot Law and the measures taken to ensure that this Law is applied in conformity with the Covenant".

64. The CHAIRMAN said she took it that the Committee wished to adopt the addition to new paragraph (15) proposed by Mrs. Evatt.

65. It was so decided.

66. New paragraph (15), as amended, was adopted.

New paragraph (16)

67. New paragraph (16) was adopted.

68. Mr. YALDEN wondered why in the case of France no question had been asked concerning mechanisms for ensuring implementation of the Covenant with regard to ethnic groups, either through the Office of the Ombudsman or through the Human Rights Consultative Committee. Such a question had frequently been asked in the case of other States parties, and he felt it would be useful to include it for the sake of consistency.

69. Mr. KRETZMER said that question had already been raised in connection with an earlier periodic report by France, and since the report now submitted for consideration was France's third, the working group had not thought it necessary to repeat the question.

70. Mr. YALDEN said that in his view the fact that the question had already been raised did not mean that it could not be raised a second time. The issue of racial and ethnic discrimination was currently highly topical in France, and it was right that the Committee should address it.

71. Ms. GAITAN de POMBO suggested that France should be asked to give information on the development or evolution of any mechanisms set up for the purpose of enforcing human rights under the Covenant.

72. Mr. BHAGWATI supported the views of the previous two speakers.

73. The CHAIRMAN said she would take it that the Committee wished to adopt an additional paragraph entitled "National human rights institutions", reading "Please provide information on the activities of the Human Rights Consultative Committee and of the Ombudsman to ensure the enjoyment of human rights, and particularly the human rights of ethnic groups".

74. It was so decided.

75. Part II, as amended, was adopted.

76. The list of issues to be taken up in connection with the consideration of the third periodic report of France (CCPR/C/76/Add.7), as amended, was adopted.

77. Mrs. Chanet resumed the Chair.

78. Mr. KRETZMER suggested that it might be useful if he were to outline the contents of the various documents received on which the working group had based its recommendations to the Committee. The first was a draft general comment prepared by Mr. Klein, summarizing the existing jurisprudence of the Committee on article 12. The second was a letter received from Colombia, following the Committee's consideration of that country's report at its previous session, relating to one of the Committee's concluding observations expressing concern at the establishment of the so-called "rural committees". The working group had recommended that the Chairman should reply to the Government of Colombia that the document had been received and would be distributed to all members for their consideration. In addition, a note had been received from the Deputy Secretary of the National Security Council on Human Rights of the Republic of Georgia, summarizing the actions the Council had taken in pursuance of the Committee's concluding observations. The group had again recommended to the Committee that it should acknowledge receipt of the letter, and state in its annual report that it appreciated the information provided. Information had also been received from the Government of Germany regarding its policy and law concerning foreigners, and the group again recommended that the Committee should express appreciation for receipt of that information in its annual report.

79. Following a request from the Committee, information had been provided on the relative costs of holding the Committee's sessions in Geneva and in New York, indicating that there was very little difference between the two. The group's recommendation was that at the earliest opportunity the Chairman should arrange a meeting with the new High Commissioner for Human Rights to discuss the question of optimal use of resources at meetings of the Committee, both in Geneva and in New York. Lastly, the group recommended that the Committee should discuss a mechanism for follow-up of its concluding observations on State party reports.

80. The CHAIRMAN thanked the Chairman/Rapporteur of the working group for those clarifications.

The meeting rose at 12.35 p.m.